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HUMAN RIGHTS COMMITTEE

Seventy-fifth session

SUMMARY RECORD OF THE 2040th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 26 July 2002, at 10 a m.

Chairperson: Mr. BHAGWATI

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The meeting was called to order at 10.05 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

Announcement of Bureau decisions

1 The CHAIRPERSON said that, with regard to the suggestions that country reports should be limited in length, the Bureau had decided that the Committee's reporting guidelines offered sufficiently clear encouragement to States to submit succinct reports. No limitation on the length of reports should thus be imposed.

2. The Bureau had reasserted the rule that members' individual opinions relating to communications considered by the Committee under the Optional Protocol must be received within three weeks of adoption of the decision - otherwise they would not form part of that decision.

3 Mr. ANDO said that, while he believed that every member of the Committee would agree with that rule, it would be helpful if the final draft of decisions could be made available to members at the end of each session, or within a reasonable period thereafter He had still not received the relevant documents from the Committee's March session in New York.

4. Mr. SCHEININ said that, while he took Mr. Ando's point, the Bureau's ruling referred to availability within three weeks of the Committee's adoption of views, provided that the final version had been made available to members of the Committee who had indicated their wish to submit an individual opinion by that date.

5. Mr. de ZAYAS (Office of the High Commissioner/Petitions Team) said that the members who had indicated their wish to express individual opinions during the New York session had been notified in accordance with the rules. However, the secretariat had been unable to implement the adoption of views until June, owing to delays in transportation and the amount of work involved in servicing the May session of the Committee against Torture.

6. The CHAIRPERSON said he took it that the Committee had a clear understanding of the procedure applying to the current session, and that there were no outstanding problems

7 Mr. SCHEININ said that the Bureau had authorized the urgent and provisional implementation of one particular decision on admissibility taken during the current session, even though dissenting opinions would not be recorded until a later stage.

8. The CHAIRPERSON said that that was his understanding. The Bureau had decided on the countries whose reports and situations would be taken up at the next session by the country report task forces, namely, Mali, Luxembourg, Estonia and Egypt. The composition of the task forces had already been announced.

9. Turning to the subject of the Festschrift, he said that 15 contributions had been received, of which 9 were in English, 5 in French and 3 in Spanish The Bureau had authorized Mr. Ando to coordinate the publication. He was to identify likely publishers and submit details to the Committee, which would take the final decision in plenary session. The Bureau had decided that the Festschrift would be issued in three languages.

10. Mr. KRETZMER said that he understood that Mr. Ando was also authorized to select the publisher, in consultation with the members of the Bureau. Otherwise, given the length of time between plenary sessions, the whole process would drag on too long.

11. The CHAIRPERSON said he took it that the Committee wished Mr. Ando to accept responsibility on the basis mentioned by Mr. Kretzmer.

12. Mr. ANDO said that he would be happy to proceed on that basis, and that he had already entered into preliminary negotiations.

13 Mr. SOLARI YRIGOYEN asked whether Mr Ando would be responsible for all aspects of the translation.

14. Mr. ANDO replied that certain members of the Bureau had been made responsible for each language, and he would consult them before deciding in which languages articles were to be published.

15. The CHAIRPERSON announced the following dates for the submission of their next reports by the countries which had been considered at the current session: New Zealand, 1 August 2007; Moldova, 1 August 2004 (with the possibility of extension depending on receipt of the information requested by the Committee); Yemen, 1 August 2004; and Viet Nam, 1 August 2004. Gambia, which had not submitted a report to the current session, had been requested to provide responses to the Committee's provisional observations. The Committee would discuss them at its March 2003 session before deciding how to proceed.

Venue for the seventy-seventh session of the Committee in March 2003

16. The CHAIRPERSON said that the Bureau had discussed the venue for its seventy-seventh session. He invited the secretariat to comment on that question

17. Mr. SCHMIDT (Secretary of the Committee) said he could add very little to what had already been said in New York in March 2002 and at the most recent meeting of the Bureau. The most salient point was that, during the current biennium, the budget allocated for staff travel to New York had been reduced by 50 per cent. As a result, the secretariat would be able to send only three staff members to a session held there in March 2003.

18. Mr. KRETZMER said that, in the past, the Committee had always accepted, by a majority, that the benefits of holding a session in New York outweighed the problems involved in transporting staff and documentation there. However, the delay mentioned by Mr. de Zayas showed the seriousness of the problems that could arise. In his view, the benefits to be gained from the New York sessions had always been marginal and had become unjustifiable in view of

the financial constraints In March 2003, the Committee would have at least four new members, and it would not be reasonable to expect them to begin their careers with so few staff members in support Even though he would not himself be a member by the time of the March 2003 session and would abstain on any vote the Committee might take at its current session concerning it, his recommendation would be to hold the seventy-seventh session in Geneva, and to review that decision one year later in the light of the then financial situation.

19. Mr. YALDEN said that, in view of the financial problems, the comments by the secretariat, and the remarks of the High Commissioner at the previous meeting, the Committee seemed to have no choice. If the financial situation changed, the Committee would then be able to resume holding its spring session in New York.

20. Mr. RIVAS POSADA said that, even in normal circumstances, working conditions were better in Geneva. The disadvantages of insisting on New York had been outlined by the secretariat. The Committee's decision need not be a definitive one but, for the time being, it should accept the proposal that the first session of 2003 should be held in Geneva.

21 Mr. AMOR said that, while there were arguments for and against holding sessions in New York, he wished to remind the Committee that, under article 37, paragraph 3, of the Covenant, the Committee was normally to meet at the Headquarters of the United Nations or at the United Nations Office at Geneva. Headquarters could thus not be ruled out and the Committee's decision could be only a temporary one.

22. Furthermore, the advantages of Headquarters and the symbolic importance of holding sessions in New York must not be forgotten. Since the events of 11 September 2001 and the measures adopted in regard thereto, human rights were being challenged everywhere. As for the financial arguments, it seemed that money could always be found in the United Nations when it was necessary. Human rights, however, tended to be left in the background. A new High Commissioner was to be appointed shortly and it would not be courteous to present him with a fait accompli. The Committee should therefore continue to explore the possibilities and reach a decision at a later stage. Rather than hurrying through the matter at the end of the current session, it should postpone its decision until its seventy-sixth session in October

23. It was also important to consider the impact of the Committee's proceedings. In both Geneva and New York, they tended to meet with general indifference. Only the non-governmental organizations (NGOs) were interested in the Committee's work and there was very little about it in the press. In places other than New York and Geneva, however, the Committee's work could have a great effect and bring about real changes in the human rights situation. The Committee should consider the possibility of holding sessions in other regions of the world where help and encouragement were needed in regard to human rights. That would, of course, have financial implications and, before anything was decided, unofficial contacts might be initiated to explore the possibilities.

24. Mr. ANDO said he was able to accept a provisional decision that the Committee should meet three times in Geneva in the coming year. He hoped that the financial situation would improve and that it would be possible to return to New York one day. United States public opinion needed to be educated and it was important to prevent human rights from being regarded

as a matter that concerned only Geneva. Mr. Amor's suggestion that the Committee should reflect on the possibility of holding meetings elsewhere, apart from New York and Geneva, was one that he could endorse.

25. Mr. SHEARER said that, while it seemed inevitable that the Committee's spring session in 2003 would be held in Geneva, the possibility of returning to New York should be kept open. Given the biennial budgetary cycle, it might be necessary to plan two years ahead. He wondered whether the Committee could take a decision that one of the six meetings covered by the cycle should be held in New York. Mr. Amor had made the interesting suggestion that the Committee should consider the possibility of holding sessions at venues other than Geneva or New York. Since interpreting facilities would be needed, that might reduce the choice in practical terms to regional headquarters such as Nairobi or Bangkok.

26. Mr. SCHEININ said that there were good reasons for convening not only the seventy-seventh session but also all future sessions in Geneva, since the Committee received greater media coverage and more attention from NGOs and observer Governments there than in New York. Mr. Amor's interesting proposal deserved an in-depth study in view of the logistical problems it would pose. If his suggestion were to be put into practice, the Committee should confine its deliberations at that particular session to reports of countries in the region where the meeting was being held.

27. Mr. KLEIN observed that there might be a legal problem, as article 37 of the Covenant stipulated that the Committee should meet in New York or Geneva. A decision on the seventy-seventh session should be taken forthwith. He suggested that it should be worded "With regard to the financial constraints concerning the travel expenses of staff, the Committee decides to hold its spring session in 2003 in Geneva. The Committee will reconsider the matter next year, including the possibility of meeting in another region."

28. Mr. GLELE AHANHANZO endorsed the view that the seventy-seventh session should be held in Geneva. A letter should be sent to the new High Commissioner to acquaint him with all aspects of the question of venue. He strongly supported Mr. Amor's proposal, because the Committee was virtually unknown in Africa, despite its valuable work. The new challenges facing human rights made it imperative for the Committee to hold a session in the South, where the media would give it tremendous publicity. The secretariat should study the cost of arranging meetings outside Geneva or New York in order to provide a factual basis for the discussions at a later stage.

29. Mr. KHALIL said that, given the financial situation, meetings would have to take place in Geneva for the time being, but he supported the proposal put forward by Mr. Shearer regarding biennial meetings in New York. Mr. Amor's idea was an original one and deserved closer consideration in order to ascertain its practical and financial implications. The stir caused in the media by a Committee meeting in a third-world country would help to spread the culture of human rights.

30. Mr. SOLARI YRIGOYEN said that he was unhappy about giving up the session in New York, since it was the Headquarters of the United Nations and a meeting there had a considerable political impact. Moreover, in Geneva, the Committee's March meeting would

coincide with that of the Commission on Human Rights and the general public would pay greater heed to the debates in the Commission and would confuse the work of the two bodies. He was in favour of Mr. Amor's idea and considered that, before the Committee took any final decision about venue, it should contact the new High Commissioner and hear his views on the subject.

31. Mr. AMOR said he proposed that the Committee should either defer its decision on the March session until October, by which time the new High Commissioner would have taken office, or should immediately decide to hold its seventy-seventh session in Geneva and its eightieth session in New York.

32. Mr. RIVAS POSADA said that it was inadvisable to postpone the decision.

33. Mr. SCHMIDT (Secretary of the Committee) said that the decision must be taken forthwith for planning reasons. If the Human Rights Committee session overlapped with that of the Commission on Human Rights, it might afford an opportunity for interaction. It was likely that the next Chairperson would be invited to address the Commission session in 2003. If the secretariat did not have enough funds for meetings in New York, it would certainly not have enough money to organize a session in another region of the world. Mr. Shearer was right in supposing that such a meeting could be held only in cities which were equipped with United Nations facilities.

34. Mr. KLEIN said that the Committee was not in a position to forecast what financial constraints might exist in two years' time. It could therefore take a decision only regarding its seventy-seventh session and also decide to reconsider the position in 2003.

35 Mr. KRETZMER said he agreed with Mr. Klein. After the new High Commissioner had taken office, the venue of future sessions after the seventy-seventh one should be reconsidered and the new members should be able to participate in decisions regarding the sessions they would be attending.

36. Mr. SCHEININ said he agreed with the views of Mr. Kretzmer. While it was not necessarily the general opinion of the Committee that one session a year should be held in New York, the latter venue should not be totally excluded.

37. The CHAIRPERSON said that he took it that the Committee wished to hold its seventy-seventh session in Geneva.

38. It was so decided.

The Optional Protocol and the meeting with States parties

39. The CHAIRPERSON said that the Committee was not yet ready to discuss the Optional Protocol, so the item should not appear on its agenda for the next session. Following the discussion in the Bureau, he suggested that the meeting with States parties on 31 October 2002 should focus on: methods of work and the Committee's new procedure in the light of the recent experience with Gambia.

40 Mr. SHEARER said he failed to understand why attention should be focused on Gambia, as Gambia had not submitted a report. The discussion should cover the broader question of how to overcome the difficulties that States parties faced in meeting their reporting obligations, for example, by giving States parties the opportunity to present streamlined reports.

41. The CHAIRPERSON said he took it that the Committee wished the meeting with States parties to discuss methods of work and the Committee's new procedure.

42. It was so decided

Discontinuance of communications

43. Mr. de ZAYAS (Office of the High Commissioner/Petitions Team) said that, as the Committee was meeting in public, he would refer to the cases concerned by number.

44. Mr. KLEIN said that the Committee usually had a detailed written list before it, as a basis for deciding whether or not to discontinue cases That practice should be maintained A discussion based solely on case numbers would be largely devoid of meaning.

45. Mr. de ZAYAS (Office of the High Commissioner/Petitions Team) said that he would distribute a list of six cases to be considered for discontinuance. Members of the Committee might wish to establish guidelines for discontinuance, to be applied in the future. In the past, cases had been discontinued because they had been withdrawn by the author or because of loss of contact with the author in cases where there was insufficient information on which to reach a decision. With regard to the latter, several reminders were sent to the author and to the State party concerned requesting the missing information, indicating that the case would be dealt with, and pointing out the risk that the case might be discontinued if the information provided was incomplete. He confirmed that reminders had been sent out in respect of the six cases listed for consideration at the current meeting. He asked whether, in the future, the Committee would wish to examine old cases, where the author or State party had not reacted to reminders, but where there might be sufficient information on which to base a decision.

46. Mr. SCHEININ said that, having looked at the list, he saw no point in continuing the discussion. According to the Optional Protocol and the rules of procedure, communications must not be discussed in a public meeting. Thus, the members of the Committee would be unable to ask for clarification of the cases listed. It might have been possible to work using numbers had some information been provided.

47. The CHAIRPERSON said he agreed with Mr. Scheinin The Committee normally had before it a complete annotated list.

48. Mr. de ZAYAS (Office of the High Commissioner/Petitions Team) said that, at its seventy-fourth session, in New York, the Committee had been provided with a summary checklist indicating the status of all cases, but there had been no opportunity during that session to take the decision to discontinue any cases. Should the members of the Committee so wish, the

secretariat was prepared to explain the six cases suggested for possible discontinuance. Those explanations could be given in a private meeting. Alternatively, the Committee might wish to postpone the discussion until its forthcoming session.

49. Mr. SCHEININ said that, unfortunately, there was no alternative but to postpone the discussion until the next session.

50. The CHAIRPERSON said that the Committee had been unable to deal with the discontinuance of cases at its previous session because of lack of time. Had the whole checklist been available at the current meeting, the Committee could have discussed the cases. Unfortunately, there was no other option but to defer until the next session the consideration of cases for discontinuance.

51. Mr. ANDO said that background information should have been provided. The Committee needed to base its decisions on clear explanations.

CLOSURE OF THE SESSION

52. After the customary exchange of courtesies, the CHAIRPERSON declared the seventy-fifth session of the Human Rights Committee closed.

The meeting rose at 11.20 a.m.